

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:05-CR-101-BO

UNITED STATES OF AMERICA        )  
  )  
v.                                        )  
  )  
KEVIN P. LYONS                    )


ORDER

This cause comes before the Court on a letter from defendant, Kevin Lyons, requesting the Court to review his case in light of *Mathis v. United States*, 136 S. Ct. 2243 (2016). Defendant is specifically challenging his sentence and his classification as a career offender pursuant to U.S.S.G. § 4B1.1. At bottom, defendant appears to request that he be resentenced without the career offender enhancement.

At the outset, the Court notes that it is without authority to issue advisory opinions. *Golden v. Zwickler*, 394 U.S. 103, 108 (1969). Further, the relief which defendant seeks is that which would result from a successful motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. Thus, the Court NOTIFIES defendant of its intent to construe his letter as a motion pursuant to 28 U.S.C. § 2255. *Castro v. United States*, 540 U.S. 375, 377 (2003). The Court further WARNS defendant of the effects of filing a motion pursuant to § 2255, including the restrictions on filing second or successive § 2255 motions, and advises him as to the requirements of § 2255.

If defendant does not wish his letter to be construed as a motion pursuant to 28 U.S.C. § 2255, he must so notify the Court and withdraw or sufficiently amend his letter within thirty (30) days of the date of entry of this order.

SO ORDERED, this 11 day of October, 2017.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE